

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DWIGHT L. ALLEN,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. CIV-08-0485-F
)	
SHERIFF BILL ROADY, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Dwight L. Allen, a prisoner appearing *pro se* and *in forma pauperis* whose pleadings are liberally construed, sues under federal law.

The Report and Recommendation of Magistrate Judge Robert E. Bacharach, of December 22, 2008 (doc. no. 41), is before the court. Plaintiff has objected to certain recommendations contained in the Report. (Objections at doc. no. 42.) Defendants have also objected to certain recommendations contained in the Report. (Objections at doc. no. 45.) Defendants have also filed supplemental materials, and plaintiff has responded to those supplemental materials.

As required by 28 U.S.C. §636(b)(1), the court has reviewed all objected to matters *de novo*. Having concluded that review, and after careful consideration of plaintiff's objections, the record, and the relevant authorities, the court finds that it agrees with the Report of the Magistrate Judge and that no purpose would be served by stating any further analysis here.

Accordingly, plaintiff's objections to the Report are **DENIED**, defendants' objections to the Report are **DENIED**, and the Report and Recommendation of Magistrate Judge Bacharach in this matter is **ACCEPTED, ADOPTED**, and **AFFIRMED** in its entirety. Accordingly, as recommended in the Report, the court

makes the following rulings, granting defendants' motion to dismiss in part and denying that motion in part (motion at doc. no. 28), as set out below.

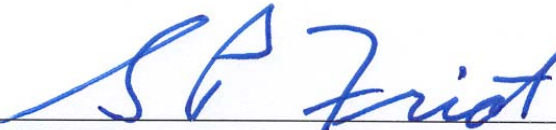
Claims involving taunts are summarily dismissed with prejudice.

Claims involving dangerous cell assignments are summarily dismissed without prejudice. Plaintiff is granted leave to amend within twenty days of the date of this order.

The motion to dismiss of Sheriff Bill Roady and Undersheriff Steve Brooks is granted. Claims against these defendants are dismissed without prejudice, and plaintiff is granted leave to amend within twenty days of the date of this order.

Captain Avance's motion for dismissal or summary judgment is denied with respect to claims involving denial of medical care and use of excessive force. Captain Avance's motion is granted with respect to claims involving threats, and these claims are dismissed with prejudice.¹

Dated this 23rd day of February, 2009.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

08-0485p005.wpd

¹Plaintiff's claim against Captain Avance for repeated placement in the drunk tank without supplies was not challenged by Captain Avance's motion, so this claim remains.